

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joshua Richardson	Team: Squad #15	CCRB Case #: 201603474	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/21/2016 11:00 PM	Location of Incident: Ann Street and Heberton Avenue	Precinct: 121	18 Mo. SOL 10/21/2017	EO SOL 10/21/2017	
Date/Time CV Reported Thu, 04/21/2016 11:46 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/21/2016 11:46 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Hesterhagen	07727	949868	121 PCT
2. SGT Michael Dicecco	03303	903799	121 PCT
3. POM Gary Leite	27464	948376	121 PCT
4. An officer			121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Dicecco	Abuse: Sergeant Michael Dicecco stopped § 87(2)(b)	
B.POM Robert Hesterhagen	Abuse: Police Officer Robert Hesterhagen stopped § 87(2)(b)	
C.POM Gary Leite	Abuse: Police Officer Gary Leite stopped § 87(2)(b)	
D. An officer	Abuse: An officer searched § 87(2)(b)'s purse.	
E.SGT Michael Dicecco	Abuse: Sergeant Michael Dicecco searched § 87(2)(b)	
F.SGT Michael Dicecco	Abuse: Sergeant Michael Dicecco strip-searched § 87(2)(b)	
G.SGT Michael Dicecco	Off. Language: Sergeant Michael Dicecco made remarks to § 87(2)(b) based upon her gender.	
H.SGT Michael Dicecco	Discourtesy: Sergeant Michael Dicecco spoke discourteously to § 87(2)(b)	
I.SGT Michael Dicecco	Abuse: Sergeant Michael Dicecco refused to provide his shield number to § 87(2)(b)	
J.SGT Michael Dicecco	Abuse: Sergeant Michael Dicecco threatened to arrest § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 21, 2016 at approximately 11:00 pm, while walking at the intersection of Heberton Avenue and Ann Street, in Staten Island, § 87(2)(b) § 87(2)(b) was stopped by, Sgt. Michael Dicecco, PO Robert Hesterhagen, and PO Gary Leite, all of the 121st Precinct (**Allegations A, B and C**). § 87(2)(b) was approached and then asked to provide her identification, but one of the three officers took her purse which was on her arm and began to look through it (**Allegation D**). § 87(2)(b) was then searched, in that, Sgt. Dicecco began to look through her jacket and pants pockets (**Allegation E**). Sgt. Dicecco then pulled down § 87(2)(b)'s pants to the back of her knees exposing her under garments (**Allegation F**). Sgt. Dicecco then stated to § 87(2)(b) "Why you changed your name for? Why are you trying to be a woman? You are still a man. You are still a man." (**Allegation G**).

Sgt. Dicecco then stated "What is that panty for? What's that bulge for? Is that to hold your dick? Is that to hide your cock"? (**Allegation H**).

After a couple minutes, an officer told her she was free to go. § 87(2)(b) asked Sgt. Dicecco for his shield number, but he did not respond (**Allegation I**) and instead took out his handcuffs and clicked them in the direction of § 87(2)(b) (**Allegation J**). § 87(2)(b) then walked away, and the officers got back in their unmarked dark colored vehicle and drove away.

This case has no video evidence. The undersigned attempted to locate video evidence by conducting a Google Map and NYPD Technical Assistance Response Unit listing camera search for the location; however the search produced negative results. Additionally, the CCRB field team attempted to obtain video footage of this incident on April 25 and 26, 2016, but was not able to.

Mediation, Civil and Criminal Histories

- § 87(2)(b) was offered mediation as an alternative to resolve this complaint during her sworn statement on May 20, 2016 but rejected it § 87(2)(b)
- On July 18, 2016, a request was made to determine if a Notice of Claim was filed in regards to this incident. Confirmation from the Office of the New York City Comptroller will be added to the case file upon receipt.
- § 87(2)(b), § 87(2)(c)
-

Civilian and Officer CCRB Histories

- This is the seventh complaint filed by § 87(2)(b) § 87(2)(b)

- Sgt. Dicecco has been a member of service for 22 years and has had 41 prior CCRB allegations for 14 different cases. There is a pattern of “Abuse-Stop”, “Abuse- Refusal of name/shield”, and “Discourtesy- Word”, being plead against Sgt. Dicecco, however only one “Abuse- Refusal of name/shield”, has been substantiated in CCRB case number 201507960 while the others have been closed as Unfounded, unsubstantiated or complainant uncooperative. The Board’s recommendation for this substantiation was “Formalized Training”; however as of today there is no NYPD disposition available.
- PO Hesterhagen has been a member of service for 5 years and has been the subject of one other allegation in CCRB Case number 201407897. The allegation was a “Refusal of name and shield” which was unsubstantiated. § 87(2)(g)
- PO Leite has been a member of service for 7 years and has been the subject of 9 prior CCRB allegations for 4 different cases. § 87(2)(g) there was only one “Discourtesy- Word” allegation substantiated.

Findings and Recommendations

Explanation of Subject Officers Identification

§ 87(2)(b) was not issued a summons nor arrested in regards to this incident. An Event Information report could not be located for this incident. No Stop, Question, and Frisk Report was generated in regards to this incident.

§ 87(2)(b) filed this complaint with the CCRB via its Call Processing System within one hour of the incident. Throughout all of her statements, her initial report, her phone statement, and her CCRB sworn statement § 87(2)(b) has remained consistent. § 87(2)(b) stated that three male officers were wearing plain clothes, in an unmarked dark colored vehicle, and identified the first part of the New York State license plate as being the letters “§ 87(2)(f)

On April 26, 2016 the undersigned investigator requested, from in-house IAB/CCRB Liaison Unit, a list of all make, model’s, and department auto numbers of all black unmarked sedan’s assigned to all NYPD commands within the borough of Staten Island with the first three letters of the vehicle’s New York State license plate being “§ 87(2)(f)”. On April 29, 2016, the in-house IAB/CCRB Liaison Unit provided the corresponding NYPD department vehicle number as 165, which is a black Chevrolet Impala assigned to the 121st Precinct, which is also the precinct of occurrence (Board Review 12). The Daily Vehicle Assignment Sheet from the 121st Precinct did list vehicle number 165, but it was documented that the vehicle was in the stationhouse for the entirety of Tour 3 on the incident date. (Board Review 10)

§ 87(2)(b) described the police officer driving of the vehicle as Caucasian male, dirty blond/ light brown hair, short “not a regular man’s clean haircut”, 5’8”-5’9”, 150-160lbs, average/medium build, 26-29 years of age, no facial hair, plain clothes (dark blue jeans, dark blue sweatshirt). § 87(2)(b) described the officer in the rear driver seat as a Caucasian male, short 5’6”-5’7”, 23-24 years of age, light brown hair, short hair on sides and back of head with spikes on top, no facial hair/clean shaven, (blue jeans, hoody). § 87(2)(b) described the officer on the front passenger seat as a Hispanic/Caucasian male, light brown complexion, short clean cut hair, black hair, no older than 30 years old, polite, medium/average build 5’8” – 5’9”, plain clothes (dark blue jeans, hoody, no facial hair, polite and professional officer).

Because the vehicle that matched § 87(2)(b)'s partial license plate number and vehicle description was assigned to the 121st Precinct, and § 87(2)(b) provided clothing descriptions of officers consistent with those performing anti-crime duties, male officers assigned to the 121st Precinct's Anti-Crime Unit, that were working at the time of the incident and who matched § 87(2)(b)'s physical descriptions were interviewed in connection with the investigation. Between June 14, 2016 and July 6, 2016, the undersigned investigator interviewed: PO Hesterhagen, PO John Murphy, Sgt. Dicecco, and PO Leite. Other Tour 3 Anti-Crime officers assigned to the 121st Precinct were not scheduled for interviews because either they did not match the physical description given by § 87(2)(b) or because once their memo books were received it was revealed that they were finished with their assigned tour, hours before the incident time.

PO Murphy testified that he had an arrest at an earlier time during his tour on the incident date and stayed in the stationhouse processing the arrest until his end of tour. This would have placed PO Murphy inside the 121st Precinct while the incident in discussion transpired. PO Murphy had memo book entries consistent with his testimony and also PO Hesterhagen, PO Leite, and Sgt. Dicecco also testified the same in regards to PO Murphy. Because of this PO Murphy was ruled out as a subject officer. (Board Review 08) On August 8, 2016 the undersigned conducted a BADS database search and verified that PO Murphy did have an arrest, § 87(2)(b) at approximately 9:18 pm, on April 21, 2016. (Board Review 11)

According to PO Hesterhagen's pedigree information he was § 87(2)(b) of age at the time of the incident, is a 5'6" tall White male, with brown eyes, and brown hair. According to PO Leite's pedigree information he was 30 years of age at the time of the incident, is a 5'7" tall White male, with black eyes, and brown hair. According to Sgt. Dicecco's pedigree information 45 years of age at the time of the incident, is a 5'10" tall White male, with brown hair, and brown eyes.

PO Hesterhagen, PO Leite, and Sgt. Dicecco, testified they were assigned to department vehicle 165, which is a black Chevrolet impala. They all testified that they stood together their whole tour, and never switched vehicles, nor are they aware if any other officers used their vehicle during their tour. However, these officers testified they did not interact with § 87(2)(b) on April 21, 2016, and also added that they never have interacted with § 87(2)(b) or are familiar with her name. All three officers testified they are familiar with the incident area. (Board Review 04, 05, and 06)

On July 28, 2016, § 87(2)(b) came into the CCRB to view 6 photo arrays which included the potential subject officer and five random fillers and identified Sgt. Dicecco as the "main" officer, the one who "mocked her", and pulled her pants down. § 87(2)(b) also identified PO Hesterhagen as the officer who just stood there laughing at Sgt. Dicecco's jokes. § 87(2)(b) stated she did not recognize any officer when PO Murphy's array was presented to her. § 87(2)(b) offered no identification for the third officer involved during PO Leite's photo array.

However because of police documentation and officer testimony, the investigation was able to determine that PO Leite was with Sgt. Dicecco, and PO Hesterhagen on the incident date.

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Abuse of Authority: Sergeant Dicecco stopped § 87(2)(b)
Allegation B: Abuse of Authority: Police Officer Hesterhagen stopped § 87(2)(b)
Allegation C: Abuse of Authority: Police Officer Leite stopped § 87(2)(b)
Allegation E: Abuse of Authority: Sergeant Dicecco searched § 87(2)(b)
Allegation F: Abuse of Authority: Sergeant Dicecco officer strip-searched § 87(2)(b)
Allegation G: Offensive Language: Sergeant Dicecco made remarks to § 87(2)(b)
based upon her gender.
Allegation H: Discourtesy: Sergeant Dicecco spoke discourteously to § 87(2)(b)
Allegation I: Abuse of Authority: Sergeant Dicecco refused to provide his shield number to

§ 87(2)(b)

Allegation J: Abuse of Authority: Sergeant Dicecco threatened to arrest § 87(2)(b)
It is disputed whether or not Sgt. Dicecco, PO Hesterhagen, and PO Leite stopped § 87(2)(b). It is also disputed whether or not Sgt. Dicecco searched, strip searched, spoke offensively and discourteously to § 87(2)(b) failed to provide his shield number to § 87(2)(b) and threatened to arrest § 87(2)(b).

§ 87(2)(b) stated she was walking at the intersection of Ann Street and Heberton Avenue, in Staten Island when she observed an unmarked dark colored impala with dark tints with the first three letters of the New York State license plate “§ 87(2)(b)” coming down the block. The vehicle stopped, Sgt. Dicecco, PO Hesterhagen, and PO Leite jumped out of the car, and approached her. § 87(2)(b) stated she stopped on the sidewalk of Ann Street in front of a driveway, and put her hands in the air, and an officer began to talk to her. One of the above mentioned officers asked § 87(2)(b) if she had any identification on her and § 87(2)(b) stated “Yes” and she handed the officer her court order with her name change. § 87(2)(b) stated that the same officer took her pocketbook which was on her arm and then flashed his flashlight on the inside of it. The officer asked § 87(2)(b) do you have anything else with your previous name on it and § 87(2)(b) stated “Yes. If you go inside my purse in the burgundy purse and open it you will see my photo I.D.” The officer reached inside her pocketbook and then inside the burgundy purse and found her I.D. with her birth name on it.

§ 87(2)(b) then testified that Sgt. Dicecco searched her four front lower coat pockets in that, he put his hands in the aforementioned pockets. § 87(2)(b) stated that the only item in her front

coat pocket was her asthma pump. Sgt. Dicecco then entered her front four pants pockets and then her two rear pants pockets. Sgt. Dicecco then put his thumbs in and around her waistband.

Sgt. Dicecco then pulled § 87(2)(b)'s pants down to the back of her knees. Sgt. Dicecco stated "Why you changed your name for? Why are you trying to be a woman? You are still a man. You are still a man. That's drugs back there, that's drugs back there. Why you changed your name for? Why do you have tits for?" § 87(2)(b) stated that her genitals were not exposed and stated that a transgender woman hides her genitals between their butt cheeks, so the bulge in the back of panties was that of her penis being tucked in.

§ 87(2)(b) testified that Sgt. Dicecco stated, "What is that panty for? What's that bulge for? Is that to hold your dick? Is that to hide your cock? You are still a man."

An officer then gave § 87(2)(b) her pocketbook back and stated § 87(2)(b) you're free to go. She hasn't been arrested in 6.5 years and has no warrants and no open cases. You are good to go." § 87(2)(b) then walked away. § 87(2)(b) stated as she was walking away she asked "Why am I being questioned for. What is the problem", but there was no response. § 87(2)(b) then asked Sgt. Dicecco for his shield number but he took his handcuffs out and began to click them in what § 87(2)(b) thought was an attempt to intimidate her. § 87(2)(b) then walked away. (Board Review 03)

All three subject officers were provided with a brief synopsis of the incident, but all of the officers denied being a part of the incident. All of them stated that they did not recognize § 87(2)(b) and they did not interact with § 87(2)(b) on that date or ever. Being that they denied interacting with § 87(2)(b) they denied all of the allegations. (Board Review 04, 05, and 06)

§ 87(2)(g)

[REDACTED]

Sgt. Dicecco testified that he and his partners were inside the 121st Precinct stationhouse until the end of their tour starting from approximately 9:30pm. However, both of his partners stated that they all went out back out on patrol again at some point during their tour. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

Moreover, a police officer making deprecatory remarks about a person's gender is never appropriate during police interaction (*NYPD Patrol Guide Procedure 203-10*) (Board Review 14), and a strip search is defined as any search in which an individual's undergarments, e.g. bra underwear, etc., and/or private areas are exposed, or in which an individuals' clothing is removed, lifted up or pulled down to expose undergarments or private areas. Strip searches may only be conducted with the knowledge and approval of the arresting officer's immediate supervisor or the borough Court Section supervisor. A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods. (*NYPD Patrol Guide Procedure 208-05*). (Board Review 08)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D: Abuse of Authority: An officer searched § 87(2)(b)'s purse.

As discussed above, the investigation was unable to identify the proper subject officer for this allegation. § 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date